



PUBLIC NOTICE

Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

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{DA 05-2726}

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Before the
Federal Communications Commission
Washington, D.C. 20554

PUBLIC NOTICE

Released: October 18, 2005

FEE DECISIONS OF THE MANAGING DIRECTOR AVAILABLE TO THE PUBLIC

The Managing Director is responsible for fee decisions in response to requests for waiver or deferral of fees as well as other pleadings associated with the fee collection process. A public notice of these fee decisions is published in the FCC record.

The decisions are placed in General Docket 86-285 and are available for public inspection. A copy of the decision is also placed in the appropriate docket, if one exists.

The following Managing Director fee decisions are released for public information:

Alpha & Omega Communications, LLC - Request for waiver of FY 2004 regulatory fees. **Granted** (May 23, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted 10 FCC Rcd 12759 (1995)]

Baldwin Broadcasting Company, D.I.P - Request for waiver of FYs 2002, through 2005 regulatory fees as well as any other years during which Baldwin has been under Chapter 11

bankruptcy protection. Partial grant. **Granted** FYs 2003 and 2004 waiver request. **Denied** FYs 2001 and 2002 waiver request. (May 23, 2005) [See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995)]

Chapparral. - Request for waiver of late payment penalty. **Denied** (May 23, 2005) [See 47 U.S.C. §1.1158(c)(2)]

EchoStar Satellite L.L.C- Request for waiver of application fees. **Granted** (May 23, 2005) [See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, Report and Order, 2 FCC Rcd 947, ¶¶ 245-248 (1987)]

Fireweed Communications Corporation (KYES TV, KYES-TV, KYEX-LP, KZND-LP). -Request for waiver of FY 2004 regulatory fees. **Granted** (May 23, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5344 (1994), recon granted 10 FCC Rcd 12,759 (1995)]

Grove Communications Inc. - Request for waiver of FY 2004 regulatory fees. **Denied** (May 23, 2005) [See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), recon. granted, 10 FCC Rcd 12759 (1995)]

KWTY-FM - Request for waiver of FYs 1999, 2000, and 2003 regulatory fees. Partial grant.

Marlene Dortch
December 15, 2004
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Confidential treatment of these materials is essential if the privacy of Alpha's owners is to be respected.


(e) If the materials are submitted voluntarily (i.e., absent any direction by the Commission), the person submitting them may request the Commission to return the materials without consideration if the request for confidentiality should be denied. In that event, the materials will ordinarily be returned (e.g., an application will be returned if it cannot be considered on a confidential basis). Only in the unusual instance where the public interest so requires will the materials be made available for public inspection. However, no materials submitted with a request for confidentiality will be returned if a request for inspection is filed under §0.461. If submission of the materials is required by the Commission and the request for confidentiality is denied, the materials will be made available for public inspection.

Alpha herewith submits the information voluntarily. Should the Commission determine not to afford the information confidential treatment, Alpha urges that the Commission agree to consider a submission of the information, with the confidential materials therein redacted.

In the unlikely event that the Commission should inexplicably deny this request, it should be considered as a petition for deferral of any duty to pay off the errant regulatory fees due to financial hardship, for purposes of satisfying Section 1.1166 of the Rules.

Please call Barry Wood of this firm or the undersigned if you have any questions regarding this matter.

Yours truly,


Paul H. Brown
counsel for Alpha & Omega
Communications, LLC

kkb
enc.

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAY 23 2005

OFFICE OF
MANAGING DIRECTOR

DOCKET FILE COPY ORIGINAL

Paul H. Brown, Esq.
Wood, Maines & Brown, Chtd.
1827 Jefferson Place, N.W.
Washington, D.C. 20036

Re: Alpha & Omega Communications, LLC
Request for Waiver of FY 2004 Regulatory Fees
Fee Control No. 00000RROG-05-047

Dear Mr. Brown:

This is in response to your request dated December 15, 2004, filed on behalf of Alpha & Omega Communications, LLC (Alpha), for a waiver of the fiscal year (FY) 2004 regulatory fees for television Station KTMW, Salt Lake City, Utah, Class A television station KCLP-CA, Boise, Idaho, and television translators K49GD, Spanish Fork, K55IT, Provo, and K59GS, Salt Lake City, (all Utah), on the basis of financial hardship. Our records reflect that Alpha has not paid the regulatory fees at issue.

You recite that "Alpha had considerable losses from the operation of its television stations during Fiscal Year 2004." In support, you submit a copy of Alpha's unaudited "Statements of Revenues and Expenditures" for the nine months ending September 30, 2004 and for calendar year 2003. In a subsequent communication, you state that the "Wages" line item on the 2004 financial statement includes salary paid to one manager and also reflects a payment to one of Alpha's owners.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." *See Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995). In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public. Thus, even if a station loses money, any funds paid to principals, deductions for depreciation or similar items are considered funds available to pay the fees.

Alpha's "Statements of Revenues and Expenditures" indicates that Alpha suffered a financial loss in the nine month period ending September 30, 2004, which was only partially offset by depreciation and compensation paid to one manager and to an owner of Alpha. Given that Alpha suffered a financial loss in the nine months ending September 30, 2004, we grant your request for a waiver of the regulatory fees for FY 2004.

Marlene Dortch

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(5) Explanation of how disclosure of the information could result in substantial competitive harm;

Disclosure of the financial information would result in substantial competitive harm for the reasons that led the Commission to provide blanket confidentiality on all Form 324 financial reports filed by broadcasters over several decades. Those reasons include the danger that a given station's suppliers and customers may go elsewhere if they learn of the nature of the broadcaster's financial situation. Customers may not commit to longer-term contracts if they have any reason to believe that a station may go dark because of a lack of funding. In addition, a station's competitors may be quick to exploit a perceived inability to match marketing efforts. In this case, such competitive harm to Alpha could damage its ability to contract for optimum programming, and to fund equipment purchases.

(6) Identification of any measures taken by the submitting party to prevent unauthorized disclosure;

Alpha has not shared its financial information with others.

(7) Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties;

The information is not available to the public and has not been previously disclosed except to Alpha's accountants and attorneys.

(8) Justification of the period during which the submitting party asserts that material should not be available for public disclosure; and


The financial material presented to the Commission should not be available for public disclosure for a period of ten years after a final decision regarding the grant of Alpha's request. After ten years, the financial data should no longer compromise Alpha with respect to its ministry and the stations' competitors.

(9) Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted.

You have also requested confidential treatment of the financial data that you submitted with your request for fee relief. Pursuant to section 0.459(d)(1) of the Commission's rules, 47 C.F.R. §0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a request for access to the information submitted in conjunction with your application fees is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,


A handwritten signature in black ink, appearing to read "Mark A. Reger", is written over a horizontal line.

Mark A. Reger
Chief Financial Officer

Marlene H. Dortch

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paying less rent for its mountain top transmitter and antenna site. Payment of the assessed regulatory fees would therefore work an extreme hardship on these stations. The Commission should appreciate that Alpha's owners are providing service, in the public interest, to Salt Lake City, Boise and the surrounding areas, without any material financial benefit to the owners.

Confidential Treatment of Data

This request for waiver or deferral of regulatory fees necessarily requires that Alpha submit to the Commission confidential financial data. Pursuant to Section 0.459(b) of the Rules, we therefore request confidential treatment of all financial data.

(b) Each such request shall contain a statement of the reasons for withholding the materials from inspection (see §0.457) and of the facts upon which those records are based, including:

(1) Identification of the specific information for which confidential treatment is sought;

Alpha seeks confidential treatment of all of the financial data included in this letter.

(2) Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission;

Alpha is requesting a waiver of payment regulatory fees for FY 2004.

(3) Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged;

Alpha does not disclose this data to others, except its attorneys and accountants, who are under an ethical obligation not to disclose it.

(4) Explanation of the degree to which the information concerns a service that is subject to competition;

Alpha competes in the commercial television service and is subject to competition from other such broadcasters, as well as other commercial media, in the Salt Lake City and Boise markets.

WOOD, MAINES & BROWN

CHARTERED

ATTORNEYS AT LAW

1827 JEFFERSON PLACE, N.W.

WASHINGTON, D.C. 20036

BARRY D. WOOD
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*Admitted in Virginia only

December 15, 2004

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DEC 17 2004

Federal Communications Commission
Office of Secretary

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attn: Office of Managing Director

Re: Alpha & Omega Communications, LLC
KTMW, Salt Lake City, Utah
Facility Id No. 10177
KCLP-CA, Boise, Idaho
Facility Id No. 27621
K49GD, Spanish Fork, Utah
Facility Id No. 29213
K55IT, Provo, Utah
Facility Id No. 29215
K59GS, Salt Lake City, Utah
Facility Id No. 1135
Request for Waiver of Regulatory Fees - FY 2004
CONFIDENTIAL TREATMENT REQUESTED

Dear Ms. Dortch:

On behalf of our client Alpha & Omega Communications, LLC ("Alpha"), licensee of television station KTMW, Salt Lake City, Utah; Class A television station KCLP-CA, Boise, Idaho, and television translators K49GD, Spanish Fork, K55IT, Provo, and K59GS, Salt Lake City (all Utah) and pursuant to Section 1.1166 of the Rules, we hereby request renewal, for federal fiscal year 2004, of the waiver of regulatory fees that has been granted in past years for these stations. Confidential treatment is requested regarding the financial data that is voluntarily disclosed to the Commission in this letter and the accompanying financial statements.

As is shown more fully by the enclosed financial statements, Alpha had considerable losses from the operation of its television stations during Fiscal Year 2004. The extreme financial hardship under which the licensee is laboring prevents payment of the

Marlene H. Dortch

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regulatory fees, including any payment subject to a refund pending action by the Commission on this request for a waiver of the fees.

Section 1.1165 of the Rules allows the Commission to waive, reduce or defer regulatory fees where good cause is shown and where waiver, reduction or deferral of the fee would promote the public interest. Waiver of the FY 2004 regulatory fees for these stations would promote the public interest by allowing them to remain on the air and serve their communities of license.

Small, gospel-centered broadcasters such as Alpha do not have the profit potential that other commercial broadcasters enjoy. Although KTMW and its translators serve communities in the Salt Lake City DMA (Nielsen market number 36), they face financial challenges with their gospel programming. While KTMW makes an important contribution to diversity, the stations have a limited potential for revenues from the sale of broadcast time, and donations are not sufficient to make up the difference.

In addition, Alpha's principal station, KTMW, was bedeviled with transmitter problems last winter. Those problems resulted in extraordinarily large expenditures for repairs, and decreased revenues for the weeks when the station was off the air.

Similarly, KCLP-CA is at a distinct disadvantage when compared with the other commercial stations in the Boise DMA (Nielsen market number 124), due to its very limited power as well as the religious nature of its programming.

The enclosed spreadsheet gives an overview of Alpha's revenues and expenses during FY 2004, and summarizes the detail shown on the enclosed financial statements. Alpha had gross revenues of \$418,097 in FY 2004. Cost of sales was \$6,499, leaving net revenues (styled "gross profit" on the statements) of \$411,598. Total expenses for the same period have been \$587,845, resulting in a net loss of \$176,247. Wages and employee benefits only constitute \$130,741 of these expenses. This is the bare minimum necessary to keep these stations on the air. (Wage expense for normal television stations would be many times that amount, but volunteers who believe in the religious programming offered by the stations donate much of the labor for the stations.) Moreover, even if one removes the depreciation expense item from the analysis, which in our view improperly assumes that the stations will never need to replace obsolete equipment, cash flow for the stations is still negative (-\$19,142).

Alpha never had any "fat" in its budget. Alpha has excised all non-essential expenses. There is no more to cut. The licensee does not have the option, for example, of